

Board Members

Maryann Santos de Barona, Ph.D.
Chairperson
James J. Cox, Ed.D.
Vice-Chairperson
Joseph C. Donaldson
Secretary
Wil R. Counts, Ph.D.
Manuel H. Delgado, Jr., J.D.
Miki Paul, Ph.D.
Byron N. Rimm
Michael J. Rohrbaugh, Ph.D.
David P. Yandell, Ph.D.



State of Arizona Board of Psychologist Examiners

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Staff

Maxine McCarthy
Executive Director
Marcus E. Harvey
Deputy Director
David S. Shapiro
Investigator
Shari S. Courtney
Administrative
Assistant

REGULAR SESSION MINUTES

Friday, June 4, 2004

1400 West Washington
Basement Conference Room, #B-1
Phoenix, AZ 85007

1. CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners was called to order by Chairperson Santos de Barona at 8:38 a.m. on Friday, June 4, 2004. Two Executive Sessions were held from 8:50 a.m. to 9:13 a.m. and 3:19 p.m. to 4:05 p.m. for the purpose of obtaining confidential legal advice from the Board's attorney.

2. ROLL CALL

Board Members Present

Maryann Santos de Barona, Ph.D. - Chairperson¹
James J. Cox, Ed.D. - Vice-Chairperson
Joseph Donaldson - Secretary
Wil R. Counts, Ph.D.
Miki Paul, Ph.D.
Byron N. Rimm
Michael J. Rohrbaugh, Ph.D.
David P. Yandell, Ph.D.

Staff Present

Maxine McCarthy, Executive Director
Marcus Harvey, Deputy Director
David Shapiro, Investigator
Shari Courtney, Administrative Assistant

Board Members Absent

Manuel H. Delgado, Jr., J.D.

Attorney General's Office

Nancy J. Beck, J.D.
Assistant Attorney General

3. REMARKS/ANNOUNCEMENTS

Chairperson Santos de Barona announced that documentation was available for licensees who wished to receive continuing education credit for attending Board meetings. She also stated that anyone was welcome to complete a Board meeting assessment survey and made an announcement concerning the timing of agenda items.

Dr. Santos de Barona then recognized the services of former Board member Maureen Lassen, Ph.D. to the Board and presented her with a plaque. Dr. Lassen made some remarks, thanking

¹ Not present in the room from 5:20 p.m. to 5:25 p.m.

the Board and Staff. Dr. Counts remarked that Dr. Lassen had also written two of the best books on cognitive therapy that were on the market today.

4. APPROVAL OF MINUTES

- **Regular Session – April 30, 2004**

A motion was made by Mr. Donaldson, seconded by Dr. Paul, and carried (6-0-2), with Drs. Cox and Rohrbaugh abstaining from the vote, to approve the April 30, 2004 Regular Session minutes.

- **Executive Session – April 30, 2004**

A motion was made by Mr. Donaldson, seconded by Dr. Yandell, and carried (6-0-2), with Drs. Cox and Rohrbaugh abstaining from the vote, to approve the April 30, 2004 Executive Session minutes.

- **Conference Call Regular Session – May 18, 2004**

A motion was made by Dr. Counts, seconded by Dr. Paul, and carried (6-0-2), with Dr. Cox and Mr. Donaldson abstaining from the vote, to approve the May 18, 2004 Conference Call Regular Session minutes.

- **Conference Call Executive Session – May 18, 2004**

Finally, a motion was made by Dr. Yandell, seconded by Dr. Counts, and carried (6-0-2), with Dr. Cox and Mr. Donaldson abstaining from the vote, to approve the May 18, 2004 Conference Call Executive Session minutes.

5. CALL TO THE PUBLIC

Chairperson Santos de Barona gave the public the opportunity to address the Board at this time but no one wished to speak.

6. DISCUSSION/DECISION REGARDING INITIAL REVIEW OF REQUESTS FOR INVESTIGATION (RFI)

a) RFI 03-24 – Daniel Gaughan, Ph.D.

David Shapiro, Board Investigator, summarized the allegations and Board members proceeded to deliberate. Mr. Donaldson made a motion, seconded by Dr. Yandell, which was withdrawn after some discussion, to dismiss the case. Dr. Counts made a motion, seconded by Dr. Rohrbaugh, and unanimously carried (8-0), to issue a letter of concern to Dr. Gaughan, expressing the Board's concerns that he:

- did not respond to the Board's request for information regarding this case in a timely manner; and
- failed to adequately inform the clients regarding his reimbursement policy for fees paid to him, if for some reason, the psychological services were not completed.

b) RFI 04-03 – Royce Holyoak, Ph.D.

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. Dr. Rohrbaugh made a motion, seconded by Mr. Rimm, and carried (7-1), with Dr. Cox voting no, to issue a letter of concern to Dr. Holyoak, expressing the Board's concerns that:

- He did not give access to son's medical records or notify in writing of a denial of access within 30 days of the request from father;
- His "Outpatient Services Contract" form, in the paragraph entitled "Professional Records" states that he is "required to maintain the complete record of treatment for three years. At that time, the specific records are destroyed" State law requires that records shall be retained for a minimum of seven years from the date of the last client activity and if the client is a minor, the client records shall

be retained for a minimum of three years past the client's 18th birthday or seven years from the date of the last client activity, whichever is longer; and

- He failed to protect the name of his client when he left his file folder lying face up on a bench in the courtroom while he was testifying on the witness stand.

After further discussion, Dr. Counts made a motion, seconded by Dr. Paul, and unanimously carried (8-0), to open a new Board investigation and complaint against Dr. Holyoak to determine whether he has destroyed client records in violation of the Board's rules.

c) RFI 04-04 – Ellen Diana, Ph.D.

Dr. Yandell recused himself from this proceeding. Mr. Shapiro summarized the allegations, after which Board members proceeded to deliberate. Dr. Cox made a motion, seconded by Dr. Counts, and unanimously carried (7-0-1), with Dr. Yandell recused, to dismiss the case.

d) RFI 04-07 – Jay Summers, Ph.D.

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. A motion was made by Dr. Yandell, seconded by Dr. Counts, and unanimously carried (8-0), to dismiss the case.

e) RFI No. 04-08 – Sydney Palmer, Ph.D.

Mr. Shapiro summarized the allegations for the Board. Dr. Palmer was present with his attorney, Michael Wolver, J.D., and made a statement to the Board. Dr. Counts stated that he knew Dr. Palmer, but that it would not bias his participation in this case. Board members then proceeded to deliberate. A motion was made by Dr. Cox, seconded by Dr. Yandell, and unanimously carried (8-0), to dismiss the case.

f) RFI 04-10 – Andrew Mosko, Ph.D.

Mr. Shapiro summarized the allegations for the Board. Dr. Paul stated that Dr. Mosko was one of nine supervisors that she had at the VA Medical Center, but that she has not seen him since then, and could be fair in evaluating this case. Board members then proceeded to deliberate. A motion was made by Dr. Yandell, seconded by Dr. Cox, and carried (7-1), with Dr. Paul voting no, to offer a consent agreement to Dr. Mosko in lieu of an informal interview, agreeing that he violated A.R.S. § 32-2061(A)(13)(h) and (o), in that he:

- destroyed certain records pertaining to the complaint's evaluation, and
- allowed the complainant to complete the MMPI-2 at home and return it to his office the following day.

The consent agreement would place Dr. Mosko on probation until completion of six hours of continuing education regarding maintaining records and conducting psychological assessments such as a course on the administration of the MMPI-2 or a risk management seminar which includes personality test administration and interpretation including ethical and evidentiary considerations. These continuing education hours would be in addition to the 60 hours of continuing education required for all licensees.

g) RFI No. 04-11 – Walter E. Fidler, Ph.D.

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. Dr. Cox made a recommendation, which was seconded by Dr. Paul as a motion, and withdrawn after further discussion, to invite Dr. Fidler to an informal interview. Dr. Santos de Barona made a motion which was seconded by Dr. Yandell, and withdrawn after further discussion, to hold a formal hearing. Dr. Yandell made a motion, seconded by Dr. Paul, and unanimously carried (8-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Board members resumed deliberations. Dr. Counts then made a motion, seconded by Dr. Rohrbaugh, and unanimously carried (8-0), to order a summary suspension of Dr. Fidler's license, as the public health, safety or welfare required emergency action, pending proceedings for revocation or other action. Ms. Beck was also directed to interview whatever necessary parties prior to the formal hearing. The Board also ordered that Dr.

Fidler immediately refer his patients to the care of another licensed psychologist. The Board adopted as conclusions of law A.R.S. § 32-2061(A)(13)(h), (o), (p), (r) and (y). It was the consensus of the Board to hold this formal hearing before the Board.

There was further discussion as to whether the Board should refer the actions of attorney Rand MacDonald to the Arizona Bar Association and it was the consensus of the Board to wait until all of the information in the case comes out.

h) Greg A. Peetoom, Ph.D. – RFI No. 04-12

Dr. Yandell recused himself from this case. Mr. Shapiro summarized the allegations for the Board. The complainant was present and made a statement to the Board, after which Board members proceeded to deliberate. Dr. Cox made a motion, seconded by Mr. Rimm, and unanimously carried (7-0-1), with Dr. Yandell recused, finding Dr. Peetoom in violation of A.R.S. §§ 32-2061(A)(13)(k), 13-3620(A) and (D) in that he:

- failed to file a written report to Child Protective Services (CPS) within 72 hours of making a verbal report to CPS.

After further discussion, a motion was then made by Dr. Cox, seconded by Mr. Donaldson, and unanimously carried (7-0-1), with Dr. Yandell recused, to offer Dr. Greg Peetoom a Consent Agreement in lieu of an informal interview. The Consent Agreement would place Dr. Peetoom on probation until he completes six hours of continuing education regarding child abuse and child abuse reporting. These continuing education hours would be in addition to the 60 hours of continuing education required for all licensees.

i) William T. Beaver, Ph.D. – Complaint No. 04-13

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. It was the consensus of the Board to continue this case and to direct the Board's investigator to obtain additional information.

j) Ronald A. Davis, Ph.D. – RFI No. 04-15

Dr. Santos de Barona recused herself from this case and Dr. Cox chaired the proceeding. Dr. Davis was present with his attorney, Eugene Kadish, J.D., and made a statement to the Board. Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. Dr. Yandell made a motion, seconded by Dr. Counts, and unanimously carried (7-0-1), with Dr. Santos de Barona recused, to dismiss the case.

k) RFI No. 04-16 – Mary-Wales North, Psy.D.

Dr. Paul recused herself from this case. Mr. Shapiro summarized the allegations for the Board. Dr. Mary-Wales North was present with her attorney, Richard Davis, J.D., who introduced themselves to the Board. The Complainant was also present and made a statement to the Board. Board members then proceeded to deliberate. A motion was made by Dr. Cox, seconded by Dr. Yandell, and unanimously carried (7-0-1), with Dr. Paul recused, to dismiss the case.

l) RFI No. 04-17 – June Stapleton, Ph.D.

Mr. Shapiro summarized the allegations for the Board. Dr. Stapleton was present and made a statement to the Board after which Board members proceeded to deliberate. A motion was made by Dr. Paul, seconded by Dr. Rohrbaugh, and unanimously carried (8-0), to dismiss the case.

m) RFI No. 04-18 – Peter M. Young VI, Ph.D.

Dr. Yandell summarized the allegations of this case after which Board members proceeded to deliberate. Dr. Yandell made a motion, seconded by Dr. Paul, and unanimously carried (8-0), to invite Dr. Young to an informal interview and to issue an interim order that he be evaluated by Dr. Ralph Earle within eight weeks.

n) RFI No. 04-22 – David E. Pool, Psy.D.

Dr. Santos de Barona excused herself and Dr. Cox chaired this proceeding. Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. Dr. Counts made a motion, seconded by Dr. Yandell, and unanimously carried (7-0-1), with Dr. Santos de Barona not present, to offer Dr. Pool a consent agreement to pay a \$720 civil penalty payable within ten

days, in lieu of an informal interview, agreeing to a violation of A.R.S. §§ 32-2061(A)(13)(o) in that:

- despite numerous requests from complainant, he failed to return the \$720.00 insurance reimbursement fee to the complainant until a complaint was filed with the Board.

The following Requests for Investigation were ongoing and were not discussed at this meeting:

RFI No. 04-14 – Karen R. Sullivan, Psy.D.

RFI No. 04-19 – Maureen K. Lassen, Ph.D.

RFI No. 04-20 – Wayne R. General, Ph.D.

RFI No. 04-21 – H. Eugene Evans, Ph.D.

7. DISCUSSION/DECISION REGARDING INFORMATION RECEIVED REGARDING JAY HEISLER, Ph.D.

Marcus Harvey, Deputy Director, explained that this matter was brought to the Board's attention to determine whether the Board wished to open an investigation of whether Jay Heisler, Ph.D. committed unprofessional conduct when he provided information on his application that he had not been previously denied in another state, when in fact he had. After some discussion, Dr. Cox made a motion, seconded by Dr. Paul, and unanimously carried (8-0), to offer Dr. Heisler a consent agreement in which he would agree to surrender his license in lieu of a formal hearing, finding him in violation of A.R.S. § 32-2061(A)(13)(j) in that he made fraudulent statements on his application in order to obtain a license with this Board.

8. DISCUSSION/DECISION REGARDING PROPOSAL FROM TASK FORCE ON COMPLAINT PROCESS – Moving from Informal Interview to Dismissal or Formal Hearing

This item was tabled to a future meeting.

9. DISCUSSION/DECISION REGARDING CALCULATION OF TRIMESTER AND SEMESTER HOURS FROM ARGOSY UNIVERSITY

Dr. Cox indicated that he was formerly a professor of psychology and Director of the Clinical Psychology program at the Arizona School of Professional Psychology (now Argosy University - Phoenix). He was there for two and a half years and left under no animosity, Dr. Cox stated, and noted that he is very familiar with the way Argosy calculates credits. He noted that the new Argosy transcripts inaccurately indicate that all of the credits received by student are semester hours, while most Argosy schools were on a trimester system prior to 2002. Board members discussed this issue after which staff was directed to send a letter to Argosy University expressing the Board's concerns and to also notify the Higher Learning Commission, the regional accrediting agencies, the American Psychological Association Committee on Accreditation and the Association of State and Provincial Psychology Boards.

10. DISCUSSION/DECISION REGARDING REVISION OF R4-26-206 REGARDING INACTIVE STATUS

Board members reviewed the draft changes to A.A.C. R4-26-206. Dr. Counts made a motion, seconded by Dr. Paul, to approve the changes to R4-26-206 and to include it in the rules changes currently being prepared for submission by Board Staff.

11. COUNSEL REPORTS

Mr. Donaldson made a motion, seconded by Dr. Paul, and unanimously carried (8-0), to move into move into Executive Session for the purpose discussing pending or contemplated litigation. Ms. Beck gave her report in Executive Session.

Upon return to open session, Board members considered the following agenda item:

- **Litigation – Discussion/Decision Regarding:**

- ❖ **Stapert v. Board – LC2003-00640-001DT** – Ms. Beck reminded the Board that Dr. Stapert's complaint for judicial review in the superior court was dismissed. He filed an appeal in the court of appeals and Ms. Beck was preparing her answering brief when she received a call from Dr. Stapert's attorney with a settlement proposal. Board members discussed the settlement proposal after which a motion was made by Dr. Cox and seconded by Dr. Paul to reject the proposal by Dr. Stapert, including the letter of concern proposal and the "letter of agreement" proposal. After further discussion, the motion carried (5-1-2), with Dr. Counts voting no, Dr. Rohrbaugh abstaining from the vote, and Dr. Yandell recused.

12. EXECUTIVE DIRECTOR'S REPORT

- **Financial** – Maxine McCarthy, Executive Director reported that as of April 30, 2004, with 83% of the fiscal year expended, the Board had only spent 71% of its appropriation. She noted that it is her usual practice to spend conservatively during the year so that money is available at the end of the year for any unforeseen expenditures. An example of this, Ms. McCarthy stated, is that funds were available to purchase a new scanner for the use of the newly enacted Complaint Screening Committee. Thus, the Board was in good financial shape.
- **Legislative Update and Discussion/Decision** – Ms. McCarthy also gave a brief summary concerning the outcome of legislation that affected the Board and psychologists.
 - ❖ **SB 1237** – As introduced, this legislation would have required that complaints filed against psychologists who perform court-ordered evaluations would have been required to be submitted through the courts. Through successful negotiations between the Board, Senator Leff and some of the forensic psychologists, a compromise was made that requires the Board's chairperson to appoint a complaint screening committee, which has the power to dismiss complaints. These dismissed complaints may not be disclosed by telephone or on the Board's website. The bill was signed by the Governor on April 23rd and will become effective at the end of August. Dr. Santos de Barona would be appointing the members of that committee shortly, Ms. McCarthy reported, and that work on procedures for that committee would also begin.
 - ❖ **HB 2348 (formerly SB 1308)** – This bill was originally introduced in the Senate as SB 1308, but failed in that format and was rolled into HB 2348. As initially passed, the legislation would have required persons performing custody evaluations to obtain six hours of initial training in domestic violence by the Arizona Coalition Against Domestic Violence and an additional six hours in child abuse issues provide by a non-profit organization that advocates for children. Every two years, six additional hours of training would have been required. Medical doctors and osteopathic doctors were specifically exempted. The compromise that was developed by the conference committee removed the references as to who could provide the training. In addition, the subsequent training required was reduced from six hours every two years to four hours every two years and it directs the Domestic Relations Committee to develop the standards for training requirement. The bill was currently awaiting the Governor's signature. While it was not exactly what the Board wanted, it was a good compromise in the end, Ms. McCarthy figured.
 - ❖ **SB 1329 and HB2625** – These were identical bills that were proposed by Northcentral University that would have removed the requirement that applicants complete a residency at the institution that awarded the doctoral degree. Neither of those bills received a hearing in their house of origin and they both died.

13. LICENSING REPORT

- **New Licenses Issued** – Mr. Harvey reported that the Board had licensed the following seven psychologists since the April meeting, one of them by credential:

3608	Nancy Amick, Ph.D.	3612	Audrey Smith, Psy.D.
3609	Gina Mercer, Ph.D.	3613	Aileen Thatcher, Ph.D.
3610	Marilyn Hoyer, Psy.D.	3614	Richard Komm, Ed.D.
3611	Megan McCormick, Ph.D.		

Mr. Harvey reported that the Board had issued 25 new licenses this year, which compared to 35 licenses issued by this time last year.

- **EPPP Results** – Mr. Harvey then reported that the following two applicants passed the Examination for Professional Practice in Psychology in April, with none failing:

Pass

Marilyn Hoyer, Psy.D.
Aileen Thatcher, Ph.D.

Fail

None

- **New Applications** – Finally, Mr. Harvey then reported that the Board had received 13 new applications in the past month. In all, the Board had received 33 applications this year, which compared to 30 applications received by this time last year.

14. **COMMITTEE REPORTS – DISCUSSION/DECISION**

- **APPLICATIONS REVIEW COMMITTEE**

- **REQUESTS TO SIT FOR EPPP & LICENSURE**

Dr. Cox made a motion, seconded by Dr. Counts, and unanimously carried (8-0), that the following applicants, having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, be approved to sit for the Examination for Professional Practice in Psychology (“EPPP”), and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee:

- **Kathleen Cramer-Pearson, Ph.D.**
- **Kristin Kirlin, Ph.D.**
- **Michael Rabara, Psy.D.**
- **Christina Van Puymbroeck, Ph.D.**

- **REQUESTS FOR LICENSURE BY EXEMPTION FROM EPPP**

Dr. Cox then made a motion, seconded by Dr. Counts, and unanimously carried (8-0), that the following applicants, having met the requirements of A.R.S. § 32-2071.01(A), be approved for licensure upon payment of the pro-rated original license fee:

- **Luz Mogrovejo, Ph.D.**
- **Phillip Potter, Ph.D.**

Dr. Cox made a motion, seconded by Dr. Counts, and unanimously carried (8-0), that **Andrew Erlich, Ph.D.**, while having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, but lacking an exam score that equals or exceeds the passing score recommended by the ASPPB on the date the examination was taken, be approved to sit for the EPPP, and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee.

- **RATIFICATION OF LICENSES ISSUED BY CREDENTIAL**

Dr. Cox then made a motion, seconded by Dr. Counts, and unanimously carried (8-0), that the Board ratify issuance of licensure by credential to the following applicants who had met the requirements of A.R.S. § 32-2071.01(B):

- **Howard Friedman, Ph.D.**
- **Richard Komm, Ed.D.**
- **Raymond Moore, Ph.D.**
- **Brenda Paluc, Ph.D.**

Finally, Dr. Cox announced that the following applications remained ongoing:

- **Dane Higgins, Ph.D.**
- **Scott Quimby, Ph.D.**

15. DISCUSSION/DECISION REGARDING CORRESPONDENCE RECEIVED ON MAY 27, 2004 FROM THE PASCUA YAQUI TRIBE CONCERNING KAREN KEWLEY, Psy.D.

Mr. Harvey explained that the Board had received information from the Pascua Yaqui Tribe concerning Karen Kewley, Psy.D., an applicant whom the Board approved to sit for the EPPP in February. The Tribe's letter indicated that Dr. Kewley was placed on administrative leave on April 30, 2004 and that they were investigating whether she may have committed unprofessional conduct under A.R.S. § 32-2061. After some discussion, A motion was made by Dr. Counts, seconded by Dr. Cox, and unanimously carried (8-0), to rescind the Board's approval for Dr. Kewley to sit for the examination, pending an investigation and satisfactory resolution of this matter.

16. ADJOURNMENT

There being no further business to come before the Board, a motion was made by Dr. Counts, seconded by Dr. Paul, and unanimously carried (8-0), to adjourn the meeting at 6:49 p.m.

Prepared by:

**Marcus Harvey
Deputy Director**

Respectfully submitted,

**/s/ Joseph Donaldson
Secretary**